PART IV

Section 1-C (i)

STATUTORY RULES AND NOTIFICATIONS ISSUED BY THE CENTRAL GOVERNMENT AND REPUBLISHED BY THIS GOVERNMENT

NOTIFICATION.

(LAW DEPARTMENT).

No LAW 21 LCR 63, dated the Bangalore 15th January 1963

Ordered that the accompanying Notification No G S. R 1811, dated the 27th December 1962, of the Ministry of Home Affairs, issuing the Compensation Tribunal Order, 1962, which has been published in the *Gazette of India*, Extraordinary, Part II, Section 3, sub-section (1), dated the 27th December 1962, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

T VENKATANARANAPPA,
Under Secretary to Government. I/c.
Law Department.

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GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS.

ORDER

New Delhi, the 27th December 1962.

G.S.R. 1811.—In exercise of the powers conferred by rules 111, 112 and sub-rule (6) of rule 113 of the Defence of India Rules, 1962, the Central Government hereby makes the following order, namely —

1. (1) This order may be called the Compensation Tribunal Order, 1962

(2) It extends to the whole of India.

(3) It shall come into force at once.

2 In this Order, unless the context otherwise requires,—

(1) 'authorised representative' means—

(a) in relation to an appellant, a person authorised by him in writing to appear in this behalf, being—

(i) a person related to him in any manner, or a person regularly employed by him, or

(ii) any legal practitioner who is entitled to practise in any civil court in India, or

(iii) a chartered accountant, and

(b) in relation to the Central or the State Government or the competent authority who is a party to any proceedings before the Tribunal, a person duly appointed by such Government by notification in the Official Gazette as authorised representative to appear, plead and act for such Government in such proceedings or duly authorised on behalf of the competent authority, and any other person acting on behalf of the person so appointed,

(2) 'member' means a member of the Tribunal,

(3) 'Tribunal' means the Compensation Tribunal constituted by the Central Government under rule 113.

3 A Tribunal shall hold its sitting at its headquarters or such other places as it may consider convenient.

4. (1) A memorandum of appeal against the order of the competent authority assessing the compensation shall be presented by the appellant in person or by his authorised representative to the Tribunal having jurisdiction in the matter, or to such other officer as the Tribunal may appoint in this behalf, at its headquarters, or sent by registered post addressed to the Tribunal or to such other officer.

(2) A memorandum of appeal sent by post under sub-paragraph (1) shall be deemed to have been presented to the Tribunal or to the officer authorised by the Tribunal, on the day on which it is received in the office of the Tribunal at its headquarters, or, as the case may be, in the office of such officer.

5. The authorised officer shall endorse on every memorandum of appeal the date on which it is presented or deemed to have been presented under paragraph 4 and shall sign the endorsement.

6 Every memorandum of appeal shall contain, in addition to any particulars which may be prescribed by the Tribunal by a notification in the Official Gazette, the following particulars, namely —

(a) the name and address of such appellant,

(b) the name and address of each person whom it is proposed to make respondent or opposite party,

(c) the competent authority and the name of the officer by whom the order objected to was passed,

(d) the date when such order was made,

(e) the names and addresses of all the parties to such order;

(f) the amount determined as compensation by the competent authority,

(g) the amount which the appellant claims as compensation in the case and the ground or grounds of such claim,

(h) full address of the authorised representative, if any.

7. Every memorandum of appeal shall be accompanied by a court fee of rupees five.

8. (1) Every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against.

(2) The Tribunal may in its discretion accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in sub-paragraph (1).

9. Where a fact stated in the memorandum of appeal which cannot be borne out by, or is contrary to, the record is alleged, it shall be supported by a duly sworn affidavit.

10. (1) If it appears to the Tribunal on receiving an appeal under paragraph 4 that it should be presented to another Tribunal, it may return it to the appellant after endorsing upon it the date of presentation and return, the reason for returning it and the particulars of the Tribunal to which it should be presented, or it may transfer the same to the Tribunal empowered to deal with the appeal.

(2) If it appears to the Tribunal at any subsequent stage that an appeal should have been presented to another Tribunal, it shall send the appeal to the Tribunal empowered to deal with it and shall inform the appellant (and the opposite party, if he has received a notice of the same) accordingly.

(3) The Tribunal to whom the appeal is transferred under sub-paragraph (2) may continue the proceedings as if the previous proceedings or any part thereof had been taken before it, if it is satisfied that the interests of the parties will not thereby be prejudiced.

11. The Tribunal may reject a memorandum of appeal, if it is not in proper form or return it for being amended within such time as it may allow. On re-presentation after such amendment, the memorandum shall be signed and dated by an officer authorised in this behalf by the Tribunal.

12 The Tribunal may either admit or summarily reject the appeal, provided that no order of rejection shall be passed without allowing the appellant an opportunity of being heard.

13. The Tribunal shall notify to the parties the date and place of hearing of the appeal, and send a copy of the memorandum of appeal to the respondent either before or with such notice.

14 The date and place of hearing of the appeal shall be fixed with reference to the current business of the Tribunal and the time necessary for the service of the notice of appeal so as to allow the parties sufficient time to appear and be heard in support or against the appeal.

15 On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal, the Tribunal shall, then, if it does not dismiss the appeal at once, hear the respondent against the appeal and in such case, the appellant shall be entitled to reply.

16. Where, on the day fixed for hearing, or any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called for hearing, the Tribunal may, in its discretion, either dismiss the appeal in default or may hear it *exparte.*

17. Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant appears and the respondent does not appear when the appeal is called for hearing, the Tribunal may hear the appeal *ex-parte.*

18 An authorised representative appearing for the appellant or the respondent at the hearing of an appeal shall file a letter of authority before the commencement of the hearing, if the same has not been filed earlier.

19. If an application is presented by any party to the proceed ings for examination of any witness, the Tribunal may, on payment of such expenses and fees, as it considers reasonable, issue summonses for the appearance of such witness, unless it considers that his appearance is not necessary for the just decision of the case

20 If the Tribunal requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the competent

authority has decided the case without giving sufficient opport to the appellant to adduce evidence, the Tribunal may allow document to be produced or witness to be examined or affidavit filed or may allow such evidence to be adduced.

21. The Tribunal shall cause a memorandum of the subs of what each witness deposes to be taken down, and such mem dum shall be signed by a member and shall form part of the re

22. (1) For the purposes of assessment of compensation Tribunal may, at its own motion or otherwise, in appropriate direct the production of the property to which the compens relates for inspection by it and where such property ca conveniently be produced at the headquarters of the Tribunal, tribunal may, after giving to the parties or their representatives n of its intention to conduct such inspection, inspect the property a other place where it can be conveniently produced by the having its custody for the time being.

(2) It shall be the duty of the party having custody of property in question either to produce the same for inspection give such facilities for such inspection as may be required b Tribunal.

(3) Any party, or its authorised representative, may accom the Tribunal at a local inspection.

(4) Members who have to undertake any tour for the pur of such inspection shall draw travelling allowance in accord with the rules of the appropriate Government applicable to the this behalf.

(5) Any inspection done under sub-paragraph (1) by member shall be deemed to have been done on behalf of the Trib

(6) The Tribunal, after making such inspection, shall briefly in a memorandum any facts observed, and shall show memorandum to any party who desires to see the same.

(7) The memorandum shall form part of the record.

23. The Tribunal shall cause to be maintained a brief diar the proceedings in each appeal.

24. The Tribunal may, after giving all the parties to the a an opportunity of being heard and after making such enquiry may consider necessary and just, make in writing the order se forth the grounds for its decision regarding the amou compensation which, in its opinion, should be allowed for property and of the apportionment of the said compensation an all persons entitled to it. The Tribunal shall, at the s time, deliver or send by registered post to all parties to the appeal

competent authority a copy each of the order together with ounds on which the order is passed.

5. If the members of a Tribunal constituted for any area differ ir assessment of the compensation payable to the owner of the rty, the record of the case in question along with a comprehen- tatement thereof shall be forwarded to the Central Government e Tribunal stating clearly the points of difference between the ers, for taking the necessary action under sub-rule (3) of 13.

6. On receipt of the record of the case under paragraph 25, the al Government shall forward the same to a member of a nal constituted for any other area requiring him to examine the nd give his opinion on the point or points of difference between embers of the Tribunal who originally dealt with it, and such er shall record his opinion and send the same to the Central nment along with the documents received with such reference.

7. Such opinion together with the documents received shall nt by the Central Government to the Tribunal which was ally dealing with the case, thereupon, the Tribunal shall decide se according to the opinion of the member of the Tribunal to the matter had been referred by the Central Government paragraph 26

8 The Tribunal may, at any time within 90 days from the of the order, with a view to rectifying any mistake apparent the record, amend any order passed by it, and shall make such dment if the mistake is brought to its notice by the appellant or ompetent authority

Provided that an amendment which has the effect of enhancing lucing the amount of compensation shall not be made under paragraph, unless the Tribunal has given notice to the parties rned of its intention to do so and has allowed them a reasonable tunity of being heard.

9 The order of the Tribunal shall be in writing and shall be d and dated by the members constituting it

0. (1) The order passed under paragraph 24 shall also state mount of costs incurred by each party in the proceedings.

(2) Where the compensation determined by the Tribunal does xceed the sum offered by the competent authority, the appellant be directed to bear his own costs and to pay as well the costs e competent authority

(3) Where the compensation determined by the Tribunal is ess than the amount claimed by the appellant and it is proved

that he made a similar claim in the enquiry by the com authority prior to the determination of compensation, the com authority shall be directed to bear his own costs as well as t the appellant

(4) Subject as aforesaid, the apportionment of costs sl in the discretion of the Tribunal.

(5) Where the costs of the competent authority have ordered to be paid by the appellant, the competent authorit deduct the amount of such costs from the compensation a payable to such person.

31. A Tribunal shall not, merely by reason of a change members, be bound to recall and rehear any witness who has evidence, and it may act on the evidence already recorded produced before it.

32. Every notice, summons or order issued or made und Order shall be served or issued in the manner laid down in ru of the Defence of India Rules, 1962.

33. Subject to the provisions of this Order and the Defe India Rules, 1962, the Tribunal shall have power to regulate it procedure in all matters arising out of the exercise of its power the discharge of its functions, including the place or places at it shall hold its sittings

[No. F. 4/2/62-Poll (Spl

HARI SHARMA, Addl.